

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES – GENERAL

Case No. 5:23-cv-00738-SVW-SSC

Date: August 4, 2023

Title: *Carlos Antonio Mendoza v. John Sutton*

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Present: The Honorable STEPHEN V. WILSON, U.S. District Judge

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Paul Cruz  
Deputy Clerk

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Not Reported  
Court Reporter / Recorder

Attorneys Present for Plaintiffs:  
None Present

Attorneys Present for Defendants:  
None Present

**Proceedings (In Chambers):** ORDER DISMISSING CASE FOR FAILURE TO  
PAY FILING FEE OR FILE A COMPLETE  
REQUEST FOR *IN FORMA PAUPERIS* STATUS

All parties instituting a habeas action in a district court of the United States must pay a filing fee. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay the fee only if the party is granted leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a)(1); Rule 3(a), 28 U.S.C. foll. § 2254.

On April 26, 2023, Petitioner filed a federal habeas petition, and on June 1, 2023, he filed a request to proceed *in forma pauperis* ("Request"). Dkts. 1, 5. On June 20, 2023, the Court postponed ruling on the Request because it was incomplete and directed Petitioner to refile his Request with the missing information or pay the \$5 filing fee. Dkt. 6. The Court warned that if Petitioner did not comply within 30 days, the case would be dismissed without prejudice. *Id.*

To date, Petitioner has not refiled his Request, paid the filing fee, or otherwise responded to the Court's order requiring him to do either. Accordingly, this action is DISMISSED without prejudice. See, e.g., *Dumphy v. CDC*, 2008 WL 4344767, at \*1 (S.D. Cal. Sept. 23, 2008) (federal court cannot proceed on habeas

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petition until petitioner has paid fee or qualified for *in forma pauperis* status, and properly dismisses action without prejudice if petitioner fails to do either).

IT IS SO ORDERED.